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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/224,009	12/31/1998	DEAN ALAN SLAWSON	MSFT112767	4223

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EXAMINER

BASHORE, WILLIAM L

ART UNIT	PAPER NUMBER
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2176

DATE MAILED: 07/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/224,009

Applicant(s)

SLAWSON ET AL.

Examiner

William L. Bashore

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is responsive to communications: amendment filed 4/16/2002, to the original application filed 12/31/1998.
2. The objection to the title of the invention has been withdrawn as necessitated by amendment.
3. Claims 6, 29, remain rejected under 35 U.S.C. 112, second paragraph.
4. The rejection of claims 13, 36 under 35 U.S.C. 112, second paragraph, has been withdrawn as necessitated by amendment.
5. The rejection of claims 1-9, 14-20, 23-32, 37-42 under 35 U.S.C. 102(b) based upon a public use or sale of the invention (Cox et al.), has been withdrawn as necessitated by amendment.
6. The rejection of claims 21-22, 43-44 under 35 U.S.C. 103(a) as being unpatentable over Cox et al. has been withdrawn as necessitated by amendment.
7. The rejection of claims 10-12, 33-35 under 35 U.S.C. 103(a) as being unpatentable over Cox et al. and Jain et al. has been withdrawn as necessitated by amendment.
8. Claims 1-44 are pending. Claims 1, 16, 24, 38 are independent claims.

Claim Rejections - 35 USC § 112

9. **The following is a quotation of the second paragraph of 35 U.S.C. 112:**

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. **Claims 6, 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

In regard to dependent claims 6, 29, the phrase "*artistic style*" is vague and indefinite. An artistic style is a highly subjective phrase. The term "*artistic style*" in claims 6, 29 is a relative term which renders the claim indefinite. The term "*artistic style*" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention (see Response To Arguments).

Examiner's Notes

11. For the following sets of rejections, the Examiner applies a possible interpretation of artistic style (claims 6, 29) as a style indicative of color or shape.

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1-21, 23-43 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention. The invention is (anticipated in view of) Balogh et al. (hereinafter Balogh), U.S. Patent No. 5,493,677 issued February 20, 1996.

In regard to independent claim 1, Balogh discloses:

- an application program comprising plurality of media clips in a database, with associated information describing each media clip, said media clips are in the form of images, as well as video clips and multimedia objects (Balogh Abstract, column 1 lines 56-64, column 3 lines 29-34, column 5 lines 48-57, Figure 6, 14; compare with claim 1 *“A method for searching a media clip database associated with a multimedia application program, wherein said media clip database contains information that describes each associated media clip in said media clip database, comprising:”*).

- a user performing an initial query (Balogh column 11 lines 60-67, column 12 lines 1-7), resulting in retrieval of captions with images along with associated information (Balogh column 14 lines 3-10, column 16 lines 42-47, 56-67, Figure 12, 13) (compare with claim 1 *“in response to a user selecting a media clip, retrieving information associated with said selected media clip from said media clip database”*).

- presenting the above captions, images and information to a user (Balogh column 14 lines 3-10, 40-41, Figure 12-15; compare with claim 1 *“presenting said information associated with said selected media clip”*).

- an additional query based upon the associated image description or bibliographic data of a previously selected image, the user can make further additions, deletions, and/or modifications to the associated information, if needed, prior to said additional query. It is to be noted that a user drags and drops a selected image into the description/bibliographic area, resulting in transfer of associated information to be used or edited in the additional query, resulting in retrieval of additional images (Balogh column 14 lines 40-59, column 16 lines 53-62; compare with claim 1 *“in response to the user selecting a search criteria based on said information associated with said selected media clip, retrieving all media clips in said media clip database that have associated information that matches the selected search criteria for the selected media clip.”*).

In regard to dependent claims 2-4, Balogh discloses display of the best retrieved captions/ images displayed for user review. This process (including displaying a plurality of clip images) is repeated by said user, as desired (Balogh Figure 13-15, column 14 lines 3-10, 40-42, column 16 lines 53-62; compare with claims 2-4).

In regard to dependent claims 5-8, Balogh discloses a media type (images), as well as search criteria based upon color and/or shape (i.e. “*red trucks*”, and “*black cats*”) (Balogh Abstract, column 11 lines 60-67; compare with claims 5-8).

In regard to dependent claim 9, claim 9 reflects the combined subject matter of claims 7 and 8, and is rejected along the same rationale.

In regard to dependent claims 10-12, Balogh discloses search criteria in the form of keywords as part of a search query, said query (keywords) can be based upon image characteristics or image type (Balogh column 11 lines 60-67, column 12 lines 9-14; compare with claims 10, 12).

Balogh discloses an additional query, whereby a result image is dragged and dropped into a description/bibliographic area, resulting in bibliographic (keyword) data copied to form a new query (in the case of Balogh, all of the data is selected) (Balogh column 14 lines 40-59; compare with claim 11).

In regard to dependent claims 13-14, Balogh discloses dragging and dropping of a selected image into a description/bibliographic area, resulting in a copy of the image’s bibliographic data (keywords) into formulation of a new query (Balogh column 14 lines 49-59; compare with claim 13).

Balogh discloses searching and presentation of files of type image from an image database (Balogh Abstract; compare with claim 14).

In regard to dependent claim 15, a computer readable medium (i.e. diskette or hard drive) used for holding instructions is known in the art (compare with claim 15).

In regard to independent claim 16, Balogh discloses:

- an application program comprising plurality of media clips in a database, with associated information describing each media clip, said media clips are in the form of images, as well as video clips and multimedia objects. It is to be noted that Balogh also discloses associated data regarding what a particular media image suggests, which is indicative of a visual thesaurus (Balogh Abstract, column 1 lines 56-64, column 3 lines 29-34, column 5 lines 48-57, Figure 6, 14, see also Figure 3 item 262, Figure 6 item 606, column 1 lines 59-61, column 3 lines 33-36; compare with claim 16 *“A method for providing a user interface for a visual thesaurus for a media clip database associated with a multimedia application program, wherein said media clip database contains information that describes each associated media clip in said media clip database, comprising”*).

- a user performing an initial query (Balogh column 11 lines 60-67, column 12 lines 1-7), resulting in retrieval of captions with images along with associated information presenting said captions, images and information to a user (Balogh column 14 lines 3-10, 40-41, column 16 lines 42-47, 56-67, Figure 12-15) (compare with claim 16 *“in response to a user selecting a media clip from said media clip database,”*).

- an additional query based upon the associated image description or bibliographic data of a previously selected image, the user can make further additions, deletions, and/or modifications to the associated information, if needed, prior to said additional query. It is to be noted that a user has the option of visually dragging and dropping a selected image into the description/bibliographic area, resulting in transfer of associated information to be used or edited in the additional query, resulting in retrieval of additional images, said drag and drop is a visual indication of said option (Balogh column 14 lines 40-59, column 16 lines 53-62; compare with claim 16 *“displaying to the user an option for finding similar*

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media clips that have associated information that matches the associated information for the selected clip.”).

In regard to dependent claim 17, Balogh discloses a browsing tool for allowing a user to visually browse hits, as well as a number of “select” buttons for choosing certain candidate matches for further examination (Balogh column 16 lines 42-47, 55-60; compare with claim 17).

In regard to dependent claim 18, Balogh discloses an additional query based upon the associated image description or bibliographic data of a previously selected image, the user can make further additions, deletions, and/or modifications to the associated information, if needed, prior to said additional query. It is to be noted that a user has the option of visually dragging and dropping a selected image into the description/bibliographic area, resulting in transfer of associated information to be used or edited in the additional query, resulting in retrieval of additional images, said drag and drop is a visual indication of said option (Balogh column 14 lines 40-59, column 16 lines 53-62; compare with claim 18).

In regard to dependent claims 19-21, 23, a fly-out window (i.e. an overlaying window, or balloon help annotation with additional information, etc.), is known in the art (compare with claim 19).

An option for inserting an image into a document (i.e. clipboard copy and paste), is known in the document processing art (compare with claim 20).

Balogh discloses a browser for viewing image hits, said hits comprise a thumbnail (preview) image along with a caption “snippet” from each image (Balogh column 16 lines 63-67, column 17 lines 1-13; compare with claim 21).

A computer readable medium (i.e. diskette or hard drive) used for holding instructions is known in the art (compare with claim 23).

In regard to independent claim 24, Balogh discloses:

- a data entry, disambiguation, and database processors within a SUN SPARCSTATION (Balogh column 3 lines 60-67; compare with claim 24 “*a processing unit*”).

- a computer readable medium (i.e. diskette or hard drive) used for holding instructions and utilized within a computer, is known in the art (compare with claim 24 “*a storage medium....by the processing for*”).

- an application program comprising plurality of media clips in a database, with associated information describing each media clip, said media clips are in the form of images, as well as video clips and multimedia objects, said clips subject to user query and selection (Balogh Abstract, column 1 lines 56-64, column 3 lines 29-34, column 5 lines 48-57, column 16 lines 56-67, column 17 lines 1-13, Figure 6, 14; compare with claim 24 “*providing an interface for a user to select a media clip...in said media clip database*”).

- a user performing an initial query (Balogh column 11 lines 60-67, column 12 lines 1-7), resulting in retrieval of captions with images along with associated information, as well as an additional query based upon the associated image description or bibliographic data of a previously selected image, the user can make further additions, deletions, and/or modifications to the associated information, if needed, prior to said additional query. It is to be noted that a user drags and drops a selected image into the description/bibliographic area, resulting in transfer of associated information to be used or edited in the additional query, resulting in retrieval of additional images (Balogh column 14 lines 40-59, column 16 lines 42-47, 53-67, Figures 12-13; compare with claim 24 *providing an interface for the user to select....with said selected media clip*”, and “*in response to the user...for the selected media clip.*”).

In regard to dependent claims 25-37, claims 25-37 reflect the apparatus comprising computer readable instructions used for performing the methods as claimed in claims 2-14, respectively, and are rejected along the same rationale.

In regard to independent claim 38, Balogh discloses:

- an application program comprising plurality of media clips in a database, with associated information describing each media clip, said media clips are in the form of images, as well as video clips and multimedia objects. It is to be noted that Balogh also discloses associated data regarding what a particular media image suggests, which is indicative of a visual thesaurus (Balogh Abstract, column 1 lines 56-64, column 3 lines 29-34, column 5 lines 48-57, Figure 6, 14, see also Figure 3 item 262, Figure 6 item 606, column 1 lines 59-61, column 3 lines 33-36; compare with claim 38 *"An apparatus for providing a user interface for a visual thesaurus for a media clip database associated with a multimedia application program, wherein said media clip database contains information that describes each associated media clip in said media clip database, comprising"*.

- a data entry, disambiguation, and database processors within a SUN SPARCSTATION (Balogh column 3 lines 60-67; compare with claim 38 *"a processing unit"*).

- a computer readable medium (i.e. diskette or hard drive) used for holding instructions and utilized within a computer, is known in the art (compare with claim 38 *"a storage medium... by the processing unit for..."*).

- a user performing an initial query (Balogh column 11 lines 60-67, column 12 lines 1-7), resulting in retrieval of captions with images along with associated information presenting said captions, images and information to a user, as well as an additional query based upon the associated image description or bibliographic data of a previously selected image, the user can make further additions, deletions, and/or modifications to the associated information, if needed, prior to said additional query. It is to be noted that a user has the option of visually dragging and dropping a selected image into the description/bibliographic area, resulting in transfer of associated information to be used or edited in the

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additional query, resulting in retrieval of additional images, said drag and drop is a visual indication of said option (Balogh column 14 lines 3-10, 40-59, column 16 lines 42-47, 53-67; compare with claim 38 “...displaying to the user an option for finding similar media clips that have associated information that matches the associated information for a selected media clip, in response to the user selecting the media clip.”).

In regard to dependent claims 39-43, claims 39-43 reflect the apparatus comprising computer readable instructions used for performing the methods as claimed in claims 17-21, respectively, and are rejected along the same rationale.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 22, 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Balogh et al. (hereinafter Balogh), U.S. Patent No. 5,493,677 issued February 20, 1996.

In regard to dependent claim 22, Balogh does not specifically teach an option to add a clip to a category. However, this limitation would have been obvious to one of ordinary skill in the art at the time of the invention, in view of Balogh, because Balogh teaches ordering selected images through a purchase/delivery service (Balogh column 17 lines 40-44). In the case of Balogh, images are user selected

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for purchase (a user voluntarily adding a media clip to a category intended for purchase) (see also Balogh column 17 lines 48-50, and column 18 lines 1-10) (compare with claim 22). Adapting Balogh to incorporate user inclusion of clips into various additional categories as taught by Balogh, provides a user of Balogh the benefit of grouping selected images for further action (i.e. negotiation, reservation, trade, etc.).

In regard to dependent claim 44, claim 44 reflects the apparatus comprising computer readable instructions used for performing the methods as claimed in claim 22, and is rejected along the same rationale.

16. **Prior art made of record and not relied upon is considered pertinent to disclosure.**

De Bonet	U.S. Patent No. 5,899,999	issued	05/1999
Yang et al.	U.S. Patent No. 6,301,586	issued	10/2001

Athitsos, V. et al., Distinguishing photographs and graphics on the World Wide Web, IEEE Workshop on Content-based Access of Image and Video Libraries, June 20, 1997, pp. 10-17.

Response to Arguments

17. Applicant's arguments with respect to claims 1-44 have been carefully considered but are moot in view of the new ground(s) of rejection. It is to be noted that Applicant's newly added limitations to the independent claims (regarding a media clip database of associated information, and searching based upon

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information associated with a media clip), reflects a significant change in scope of the claimed limitations when read as a whole. It is additionally noted that Applicant's arguments are substantially directed to newly amended subject matter.

Applicant argues on page 5 (at bottom) to page 6 (at top), and on page 11 of the amendment, that the scope of the limitation "*artistic style*" (as presently claimed in claims 6, 29) is clear, definite, and known to one of ordinary skill in the art. The Examiner respectfully disagrees. While the Examiner concurs that art can be described in terms of its style, the question of scope and interpretation remain unresolved. Possible interpretations of artistic style can be applied to an image presentation (i.e. landscape or portrait), an established style of painting (i.e. impressionism, realism, etc. – as presented by Applicant on page 11 of the Amendment), or artistic style as applied to an object within an image (i.e. an image of a house rendered in the artistic architectural style of a Spanish villa). The scope is unclear, undefined and highly subjective, and it is noted that the Examiner cannot find any specific example defining an "*artistic style*" within Applicant's specification.

Conclusion

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William Bashore whose telephone number is (703) 308-5807. The examiner can normally be reached on Monday through Friday from 11:30 AM to 8:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon, can be reached on (703) 308-5186.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

20. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 746-7239 (for formal communications intended for entry)

or:

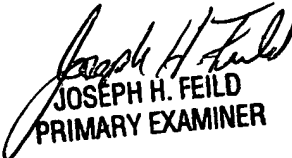
(703) 746-7240 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

or:

(703) 746-7238 (for after-final communications)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA, Fourth Floor (Receptionist).

William L. Bashore
06/28/2002


JOSEPH H. FEILD
PRIMARY EXAMINER